

What does “Just Cause” Mean?

Just Cause and Progressive Discipline

Local 17 contracts include provisions that require employers to use progressive discipline and have just cause before they administer discipline.

The emphasis in disciplinary action should be to correct employee behavior or to help a person rehabilitate and improve, not to punish or penalize.

In most disciplinary actions the level of discipline should be progressive, starting with a verbal or written warning and progressing through suspension or demotion before termination is considered.

There are exceptions to these progressive steps; each case has to be examined on its own merits. There are circumstances, such as theft, fighting or serious cases of harassment, when an employee may be terminated without progressive discipline or suspended pending an investigation.

Most Local 17 contracts require that an employer have just cause before administering discipline. However, none of the contracts define the term just cause. It has been called “what a reasonable person would consider a fair and equitable basis for discipline.”

But Stewards who are trying to determine whether an employer has just cause for disciplining a co-worker need a more precise set of standards. The traditional tests were developed 30 years ago by labor arbitrator Carroll Daugherty. Since then, they have been used by countless unions, employers, and labor arbitrators. His seven tests of just cause are applicable to any discipline case and they are listed right.

A more extensive explanation of just cause will be published in the July-August issue of *InSight*, which will be in mailboxes by the end of August. — *Local 17 Steward Resource Guide*



Seven Tests of Just Cause

1. Prior Notice

Did the employer give the employee forewarning of the possible or probable consequences of the employee's conduct? (Some offenses such as fighting and theft may not require notice).

2. Reasonable Rule or Order

Was the employer's rule or order reasonably related to (a) the orderly, efficient, and safe operation of its business, and (b) the performance that the employer might properly expect of the employee?

3. Investigation

Before administering discipline to the employee, did the employer make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?

4. Fair Investigation

Was the employer's investigation conducted fairly and objectively?

5. Proof

At the investigation, did the “judge”— a disinterested third party — obtain substantial evidence or proof that the employee was guilty as charged?

6. Equal Treatment

Has the employer applied its rules, orders, and penalties even-handedly and without discrimination to all employees?

7. Appropriate Penalty

Was the degree of discipline administered reasonably related to (a) the seriousness of the employee's proven offense, and (b) to the record of the employee's service with the employer?